

Ordinance No. 11-09 ORDINANCE:

To amend Sections 8-71, 8-73, 8-76, 8-78, and 8-81 of Chapter 8 of the Rockville City Code entitled "Elections" so as to provide that contributions greater than \$10.00 may be made by electronic payment; to increase the maximum contribution per individual to a candidate or campaign committee to \$1,000 and increase the maximum aggregate contribution per individual to all of the candidates/ campaign committees to \$2,000; to amend the filing deadlines for campaign financing reports; and to eliminate the requirement that campaign treasurers be Rockville residents

BE IT ORDAINED BY THE Mayor and Council of Rockville, that Chapter 8 of the Rockville City Code entitled "Elections" be amended as follows:

SECTION I. That Section 8-71 entitled "Appointment of treasurer, resignation of treasurer, reports of candidate and treasurer, candidate joining slate" be amended to read as follows:

Sec. 8-71. Appointment of treasurer; resignation of treasurer; reports of candidate and treasurer; candidate joining slate.

(a) (1) Each candidate for election to office, upon or before, and as a condition precedent to qualifying as candidate, shall appoint one treasurer and shall file the name and address of the treasurer with the City Clerk as provided in subsection (c) of this section. A person who becomes a candidate by virtue of paragraphs (1), (2), (3) or (4) of the definition of candidate in section 8-1, shall appoint one treasurer and shall file the name and address of the treasurer with the City Clerk as provided in subsection (c) of this section within fifteen (15) days after becoming a candidate. Every treasurer so appointed shall accept the appointment, in writing, prior to the filing of his name as treasurer. A treasurer, when accepting appointment, shall certify that the treasurer will serve until all duties have been performed or a successor is duly chosen. The City Clerk may not accept any certificate of candidacy, either finally or conditionally, unless the name of the

treasurer has been filed with the Clerk previous to or simultaneously with the filing of the certificate of candidacy. The candidate and treasurer shall file campaign fund reports in accordance with section 8-81.

(2) A treasurer who resigns shall do so on a form prescribed by the Board of Supervisors of Elections signed by him, filed with the City Clerk. The candidate immediately shall appoint and file a new treasurer in accordance with this section. The treasurer's resignation shall not be effective until a successor is registered with the City Clerk. A treasurer, when resigning, shall certify that the treasurer has served until all duties have been performed and a successor was duly chosen.

(3) A member of the Board of Supervisors of Elections or any permanent, part-time, or temporary employee of the Board, during such person's tenure in office or employment, may not be a candidate or treasurer of any candidate, combination of candidates, or campaign committee, nor may any member or employee actively participate in a City political campaign. Membership in a political party, without further action in connection with a City political campaign, shall not be deemed to be actively participating in a City political campaign.

(b) The form for appointment of a treasurer and the acceptance of such appointment by the treasurer shall be on a form prescribed by the Board of Supervisors of Elections.

(c) A person may not serve as a treasurer unless the form described in subsection (b) of this section is filed with the City Clerk. Nothing in this subtitle shall either prevent the treasurer of any candidate from being the treasurer of another candidate or campaign committee. However, a candidate may not designate himself or herself as said candidate's own treasurer or act as treasurer of any other candidate or campaign committee. To be appointed or act as a candidate's treasurer in any election a person must be a registered voter in either the County of Montgomery or the City of Rockville [and be either a resident of the City or have a business address in Rockville].

SECTION 2. That Section 8-73 entitled "Appointment of chairperson and treasurer by campaign committee; reports" be amended to read as follows:

Sec. 8-73. Appointment of chairperson and treasurer by campaign committee; reports.

(a) Every campaign committee, as defined in section 8-1 of this chapter shall appoint and constantly maintain a chairperson and a treasurer, whose names and residences addresses shall be filed with the City Clerk. The chairperson [and treasurer] shall be a registered voter[s] of the County of Montgomery or of the City of Rockville and be either a resident[s] of the City or have a business address

in the City. The treasurer shall be a registered voter of the County of Montgomery or of the City of Rockville. The treasurer shall receive, keep, and disburse all sums of money, or other valuable things, which may be collected, received, or disbursed by the committee or organization or by any of its members for any purposes for which the committee or organization exists or acts. Unless the chairperson and treasurer are appointed and filed as required in this subsection, it is unlawful and a violation of this chapter for a campaign committee, or any of its members, to collect, or receive, or disburse money, or other valuable things, for such purposes. A chairperson or treasurer of a campaign committee who resigns or otherwise ceases to be chairperson or treasurer, as the case may be, shall notify the City Clerk on a form prescribed by the Board of Supervisors of Elections and signed by said chairperson or treasurer. A new appointment must be made and filed immediately in accordance with this section. The treasurer and chairperson shall file campaign fund reports in accordance with subsection (b) of this section and section 8-81 of this chapter.

(b) If any committee, directly or indirectly, expends five hundred dollars (\$500.00) or more to aid or oppose the nomination or election of any candidate, regardless of the purpose for which the committee is formed, the treasurer of such committee shall report, on the form prescribed in section 8-82 of this chapter, a statement of contributions and expenditures to the treasurer appointed by the candidate being so aided, which statement shall be included in, or attached to, the statement of contributions and expenditures reported by the treasurer of the candidate as provided in sections 8-81 and 8-82 of this chapter, except that if the committee has on file a current campaign fund report with either the State of Maryland or Montgomery County, then the identification of that campaign report by the committee that received the contribution would be sufficient to comply with the terms of this subsection.

(c) Any campaign committee authorized by a candidate to receive contributions or make expenditures shall be authorized in writing by the candidate and must register with the City Clerk.

(d) If any campaign committee becomes inactive or chooses to disband, a written statement to this effect must be filed with the City Clerk not later than the day by which the next report of such campaign committee is due. Such report shall show that all funds collected by such committee have been disbursed pursuant to section 8-76(d)(1) through (4) and shall identify such disbursements subject to section 8-82 of this chapter. No such report may be filed until such campaign committee has complied with the requirements of section 8-81. Unless the City is so notified, reports will be required and will be subject to late fees.

SECTION 3. That Section 8-76 entitled “Books, records and receipts of treasurer” be amended to read as follows:

Sec. 8-76. Books, records and receipts of treasurer.

(a) *Account books.* Every treasurer shall keep detailed, full and accurate accounts in a proper book to be called "account books," to be provided and preserved by such treasurer, of all contributions, money or valuable things received by or promised to, and of all expenditures, disbursements and promises of payment or disbursements of money or valuable things made by the treasurer.

(1) The account books shall set forth the date, amount, name and address of:

a. All persons from whom more than ten dollars (\$10.00) was received (whether in the form of contributions, loans or other receipts).

b. All persons making in-kind contributions and the fair market value of the in-kind contribution, unless the in-kind contribution is food or beverage which is either:

1. Served to a group of twenty-five (25) persons or less; or
2. Costs less than one hundred dollars (\$100.00).

c. All persons to whom disbursements were made, the check number, purpose, and amount of disbursement.

(2) The account books shall set forth the amount and date of all contributions of ten dollars (\$10.00) or less.

(3) The account books shall set forth the date, amount, name and address of all persons to whom any sum or thing of value is disbursed and the object and purpose for which the sum or thing of value was disbursed.

Books and records may be destroyed or discarded at any time after two (2) years from the date of filing the final report required by section 8-81 unless a court of competent jurisdiction orders their retention for a longer period.

(b) *Campaign contribution receipts.*

(1) Upon receipt of a contribution, a "campaign contribution receipt," in a form prescribed by the Board of Supervisors of Elections, shall be issued and delivered either by mail, by email, or in person by the treasurer to each person or treasurer of a committee, group, or organization in whose name:

a. Contributions are made in the individual or cumulative amount of more than ten dollars (\$10.00);

b. Tickets are purchased for any dinner, testimonial, cocktail party, barbecue, crab feast or other campaign-related function in the individual amount of more than ten dollars (\$10.00) or in the cumulative amount of more than fifty dollars (\$50.00). Upon request, a receipt must be given for any lesser amount.

(2) The treasurer shall retain a duplicate copy of all "campaign contribution receipts" with his books and records as required by subsection (a) of this section and report the information therein in the statement of contributions and expenditures required by sections 8-73 and 8-82.

(3) The "campaign contribution receipt" issued to a contributor shall serve as evidence of a contribution by such contributor.

(c) *Anonymous contributions.* Except for contributions valued at ten dollars (\$10.00) or less, any money or other thing of value received from any unknown person or source by any treasurer, shall not be used for any political purpose whatsoever, but shall be paid by the treasurer so receiving the same, to the treasurer of the City.

(d) *Disposition of surplus funds.* Prior to the time of filing the final report required by section 8-73, any surplus funds remaining after payment of all campaign expenditures shall be:

- (1) Returned, pro rata, to the contributors by the treasurer;
- (2) Paid to the City;
- (3) Paid to a charitable organization registered pursuant to Article 41, Section 103B, of the Annotated Code of Maryland, as amended, or to a charitable organization exempt from such registration pursuant to Article 41, Section 103, of the Annotated Code of Maryland, as amended; or
- (4) In the case of continuing campaign committees, surplus funds may be carried forward to be used in the next election cycle provided such funds are reported as carry-forward receipts during the next election cycle.

SECTION 4. That Section 8-78 entitled "Contributions and expenses of persons not candidates" be amended to read as follows:

Sec. 8-78. Contributions and expenses of persons not candidates.

(a) *Restrictions.* No person (other than a candidate with respect to contributions to said candidate's own campaign committee promoting, exclusively, said candidate's own candidacy) shall, to aid or promote the success or defeat of any campaign committee or principle or of any proposition submitted to vote at any public election or of any candidate for election to public office, make a payment or contribution of money or property or incur any liability or promise any valuable thing to any person other than to the treasurer of a candidate or treasurer of a campaign committee in said candidate's or treasurer's official capacity except as provided in subsections (b) and (c) of this section. A contribution may be made

directly to a candidate provided such candidate shall thereupon report such contribution to said candidate's treasurer.

(b) *Exception for volunteering time and personal vehicle.* Nothing contained in this section shall limit or affect the right of any person to volunteer his time or personal vehicle for transportation incident to any election or to expend money for proper legal expenses in maintaining or contesting the results of any such elections.

(c) *Exception for expressing personal views, promoting candidate or proposition.* Nothing in this section shall preclude any person from expressing said person's own personal views on any subject, or making independent expenditures for hiring halls, holding receptions, buying newspaper space and radio or television time or otherwise promoting a candidate or proposition, independently from any campaign committee, provided that:

(1) Coincident with such statement or advertising notice shall be given that the:

- a. Views so expressed are the person's own;
- b. Statement so made is a "paid political advertisement"; and
- c. Person responsible for the advertisement is clearly identified.

The requirements of this subsection (1) shall not apply to any individual producing, publishing, or distributing campaign material promoting the success or defeat of any principle or proposition submitted to a vote at any City election, provided that such campaign material is produced, published, and distributed independent of, and not in coordination with, any campaign committee or other entity.

(2) All such independent expenditures must be reported, in accordance with the rules and filing dates pertaining to campaign committees under section 8-81, once they exceed twenty-five dollars (\$25.00).

(d) *Limit of contributions.* It is unlawful for any individual, association, unincorporated association, corporation, or any other entity, either directly or indirectly, to contribute in any election cycle any money or thing of value greater than [five hundred dollars (\$500.00)] One Thousand Dollars (\$1,000.00) to any single candidate or campaign committee or to contribute money in excess of one hundred dollars (\$100.00) except by check, except that contributions may be made by any electronic method provided said contribution is recorded by the Treasurer and a receipt is provided to the contributor and a copy of the receipt is maintained by the Treasurer. Total contributions by a contributor to various campaign committees and candidates in any election cycle under this subsection shall not exceed [one thousand dollars (\$1,000.00)] Two Thousand Dollars (\$2,000.00).

(e) *Transfer of funds.*

(1) The following types of transfers are exempt from the limitations of five hundred dollars (\$500.00) and one thousand dollars (\$1,000.00) set forth in subsection (d) of this section:

- a. From one (1) candidate's treasurer to another candidate's treasurer;
- b. From the treasurer of a campaign committee to the treasurer of another campaign committee;
- c. From a candidate's treasurer to the treasurer of a campaign committee;
- d. From the treasurer of a campaign committee to a candidate's treasurer.

(2) No transfer of any kind, in any amount, is permitted if it is intended to conceal the true identity of the actual contributor or the identity of the intended recipient.

(f) *Election cycle.* An election cycle shall begin on the ninetieth day following the date of the previous general election and end on the eighty-ninth day after the next general election. Special elections shall not effect the commencement and conclusion of election cycles for purposes of the chapter. In the case of special elections, the Board shall prescribe a schedule for the filing of reports, which schedule shall be reasonably consistent with the intent of section 8-81 with respect to general elections.

SECTION 5. That Section 8-81 entitled "Election reports to be filed by candidate, treasurer and committee chairperson" be amended to read as follows:

Sec. 8-81. Election reports to be filed by candidate, treasurer and committee chairperson.

(a) A candidate and the treasurer designated by that candidate, and the chairperson and every treasurer of a campaign committee, shall file the report or statement of contributions and expenditures as prescribed in accordance with section 8-62 with the City Clerk. All reports or statements of contributions and expenditures shall be filed in duplicate. It is the responsibility of the candidate and treasurer, jointly and severally, if it is the statement of a candidate; the chairperson and treasurer, jointly and severally if it is the statement of a campaign committee; and, in the case of a campaign committee which is a "slate" as described in section 8-72(a), the slate chairperson, treasurer and individual slate candidates, jointly and severally, if it is the statement of such "slate", to file all reports or statements in full and accurate detail. Except as provided herein, each

report filed shall contain all contributions received and expenditures made through and including the seventh day immediately preceding the day by which that report is to be filed, except as otherwise provided in this section. The initial report filed in an election cycle shall contain all contributions so received and expenditures so made since the closing date of the last report in the preceding election cycle, except that to the extent that there is an outstanding deficit from the last preceding election cycle, contributions may be credited against said deficit and shown on the report required by subsection (a)(4) for the last preceding election until such contributions equal the amount of the deficit at which time further contributions will be included in the current election cycle even if there are remaining unpaid bills. Each subsequent report shall contain all contributions so received and expenditures so made since the end of the period for which the last preceding report is filed. Even if no contributions or expenditures have been made since the end of the period for which the last preceding report was filed, a statement to that effect must be filed on the forms prescribed pursuant to section 8-82 under the circumstances and at the times specified in this section. Each report will be posted on the City's website within twenty-four (24) hours of the respective filing deadline. The initial and subsequent reports shall be consecutively filed no later than the dates and times provided as follows:

- (1) By 5:00 p.m. on the [sixth Monday] fifth Thursday immediately preceding any election which report shall be complete through and including the Friday preceding such [Monday] Thursday; and
- (2) By 5:00 p.m. on the [second Monday] Thursday immediately preceding an election which report shall be complete through and including the Sunday preceding such [Monday] Thursday; and
- (3) Thirty (30) days after the election; and
- (4) If a cash balance exists or if any unpaid bills or deficits remain to be paid as of the end of the period for which the report or statement in subsection (a)(3) above or any subsequent report or statement is filed, annually on November 8th of every subsequent year until no cash balance, unpaid bill, or deficit remains; and
- (5) If a cash balance or outstanding debts or deficits were reflected on the last preceding report, but have all been eliminated by the date on which the next report is due, and the campaign committee has dissolved, or all of a candidate's accounts have been closed, then a report clearly marked as "final" shall be filed on or before such date showing all transactions since the last report.
- (6) If a candidate does not intend to receive contributions or make expenditures of three hundred dollars (\$300.00) or more, the candidate and his treasurer may jointly execute an affidavit to that effect on a form prescribed by the Board of Supervisors of Elections. If the candidate does not in fact receive contributions or make expenditures of three hundred dollars (\$300.00) or more, no further reports need be filed pursuant to this

section. The affidavit shall be filed not later than the date by which the first report is due. If at any time the cumulative contributions to or expenditures by a candidate who has filed such an affidavit equal or exceed three hundred dollars (\$300.00), the candidate and the candidate's treasurer shall thereafter file all reports required by this section.

(7) Except for reports required by paragraphs (a)(1) and (a)(2) of this section, if a report is due on a Saturday, Sunday or legal holiday, the report shall instead be filed on the next business day.

(8) Reports required by paragraphs (a)(1) and (a)(2) of this section shall be hand-delivered to the City Clerk. A receipt shall be issued for all hand-delivered reports.

(b) With respect to candidates for public office, election reports as specified below are required by all candidates for public office, whether or not the candidate's name appears on the ballot, or the candidate withdraws subsequent to filing his certificate of candidacy, or the candidate is unsuccessful in the election.

(c) (1) The chairperson and the treasurer of any campaign committee which continues in existence from year to year, shall file the report or statement of contributions and expenditures as prescribed in accordance with section 8-82 with the City Clerk at each of the times and for the respective periods specified in subsection (a) of this section.

(2) a. In any election year, on or before the dates specified in subsection (a) of this section, in lieu of the scheduled reports required to be filed under that subsection, a campaign committee which continues in existence from year to year may file an affidavit stating that since the date covered by the last report the committee has not been involved in raising or spending, and does not intend to raise or spend, money for that election.

b. Until disbanded or reactivated, a campaign committee which continues in existence from year to year that files an affidavit under this paragraph shall also file an annual report on November 8th of each subsequent year giving a statement of all contributions received and expenditures made since the end of the period for which the last preceding report is filed, as prescribed in section 8-82 with the City Clerk.

c. If, subsequent to the filing of the affidavit provided in this paragraph, a campaign committee which continues in existence from year to year receives contributions or makes expenditures in connection with the election for which it filed the affidavit, the committee shall thenceforth file all scheduled reports on the dates specified in subsection (a) of this section. If the contributions were received or expenditures made before any scheduled reporting dates, the committee is liable for all of the penalties for the late-filing of each of the required reports.

d. The form of the affidavit to be filed under this paragraph shall be as prescribed from time to time by the Board of Supervisors of Elections.

(d) In the case of a newly formed campaign committee, the campaign committee is not required to file any reports under section 8-81(a) otherwise due on or before the date of formation of such campaign committee.

(e) Each candidate, the treasurer of each candidate, and the chairman and treasurer of each committee shall be notified by the City Clerk, by first class mail and no more than twenty (20) nor less than ten (10) days prior to the applicable filing date, of each report that person is required to file. The notice shall include the filing date, the place for filing, the penalty for failure to file a timely report, and the telephone number and business hours of the office where the report is to be filed.

(f) Except for the reports required by paragraphs (a)(1) and (2) of this section, any report shall be considered timely if it is mailed on or before the filing deadline, regardless of when it is actually received, if the United States Postal Service has provided verification of that fact by affixing a mark so indicating on either the envelope or any receipt therefor. Unless a report is mailed, the City Clerk shall provide a receipt for each report received.

(g) Notwithstanding anything contained in this chapter to the contrary, an organization, including a campaign committee, may designate an affiliated campaign committee and the designating organization shall not be required to file any of the election reports of contributions and expenditures described in this section if:

(1) The designation is made on a form prescribed by the Board and consented to by the affiliated committee on said form;

(2) The affiliated committee has a treasurer and chairman different from the designating organization's treasurer and chairman;

(3) The designating organization does not provide any financial or other reportable contributions to the affiliated committee;

(4) The designating organization otherwise takes no action to assist or attempt to assist in any manner the promotion of the success or defeat of any candidate, candidates, principle or proposition which has been, will be, or is being sought to be submitted to a vote in the current City election cycle after an organization designates an affiliated campaign committee.

(5) The affiliated committee complies with all reporting requirements of this chapter for the election cycle.

(h) The provisions of this section shall apply to all campaign committees, their chairpersons and treasurers, and treasurers for candidates for public office located outside of the geographic boundaries of the City with respect to all expenditures of funds with respect to City elections.

(i) For purposes of this section, the failure to provide all of the information required by the forms prescribed in accordance with section 8-82, to the extent applicable, is a failure to file.

(j) Within ten (10) days after the deadline for the filing of any report which is required to be filed, the City Clerk shall compile a list of every candidate or committee which failed to file the report, which list shall be available to the public.

NOTE: [Brackets] indicate material deleted

Underlining indicates material added

Double Underlining indicates material added after introduction.

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of March 23, 2009.

Claire F. Funkhouser, City Clerk